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OFFICE OF PETITIONS

In re Application of :
Landes et al. :
Application No. 10/805,177 : DECISION ON PETITION
Filed: March 19, 2004 :
Attorney Docket No. 21402-665 (CURA 965) :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 7, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Restriction Requirement mailed August 20, 2007, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were timely obtained. Accordingly, the application became abandoned on September 21, 2007. A Notice of Abandonment was mailed March 18, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a response to the Restriction Requirement, (2) the petition fee of \$810.00 and (3) a proper statement of unintentional delay.

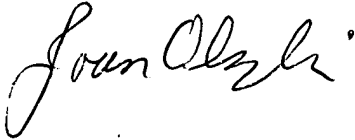
The above-identified application has been abandoned for an extended period of time. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting the statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.¹

¹ See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178; 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109) (applicant obligated under 37 CFR 10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 CFR 1.137(b) to the Patent and Trademark Office).

Additionally, an extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See In re Application of S.*, 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the \$1,175.00, five month extension of time fee submitted on July 7, 2009 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be refunded to petitioner's credit card in due course.

Telephone inquiries concerning this decision should be directed to the undersigned at (571)272-7751.

This application is being referred to Technology Center AU 1643 for appropriate action by the Examiner in the normal course of business on the reply received July 7, 2009.

A handwritten signature in cursive script, reading "Joan Olszewski".

Joan Olszewski
Petitions Examiner
Office of Petitions